REMARKS

Claims 1-20 are pending in the application. By this Amendment, claims 1 and 7 have been amended. It is submitted that this Amendment is fully responsive to the Office Action dated October 5, 2009.

As to Clerical Errors in the Office Action

In Office Action Summary, the Examiner indicates that claims 1-7 are pending in the application. However, by the Response filed on September 3, 2008, Applicants elected Group I (claims 1-10) from pending claims 1-20 in response to the Restriction Requirement dated August 19, 2008. Therefore, claims 1-20 are still pending and claims 11-20 are withdrawn from consideration. As such, it is respectfully requested that the Examiner corrects the disposition of claims.

Moreover, the Action mentions about the IDS filed on July 14, 2009. However, it is believed that this is incorrect because applicants did not file any IDS on July 14, 2009. Prompt correction is requested.

Claim Rejections - 35 U.S.C. §101

Claims 1 and 7 is rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

This rejection is respectfully traversed. According to "New Interim Patent Subject Matter Eligibility Examination Instructions" effective on August 24, 2009, the followings are provided:

B. Processes (methods)
A process claim, to be statutory under § 101, must pass the machine-or-transformation test (Mor- T test), which ensures that the process is limited to a particular practical application.

In accordance with the **M-or-T test**, the claimed process must:
(1) be tied to a particular machine or apparatus (machine implemented); or
(2) particularly transform a particular article to a different state or thing.

A method claim that does not require machine implementation or does not cause a transformation will fail the test and should be rejected under § 101.
However, the mere presence of a machine tie or transformation is not sufficient to pass the test. When a machine tie or transformation has been identified, it must be further determined that the tie is to a **particular** machine or the particular transformation is of a **particular** article.

A "particular" machine or apparatus or transformation of a "particular" article means that the method involves a *specific* machine or article, not any and all machines or articles. This ensures that the machine or transformation imposes real world limits on the claimed method by limiting the claim scope to a particular practical application.

For computer implemented processes, the "machine" is often disclosed as a general purpose computer. In these cases, the general purpose computer may be sufficiently "particular" when programmed to perform the process steps. Such programming creates a new machine because a general purpose computer, in effect, becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software. To qualify as a particular machine under the test, the claim must clearly convey that the computer is programmed to perform the steps of the method because such programming, in effect, creates a special purpose computer limited to the use of the particularly claimed combination of elements (i.e., the programmed instructions) performing the particularly claimed combination of functions. If the claim is so abstract and sweeping that performing the process as claimed would cover substantially all practical applications of a judicial exception, such as a mathematical algorithm, the claim would not satisfy the test as the machine would not be sufficiently particular.

Moreover, "INTERIM EXAMINATION INSTRUCTIONS FOR EVALUATING SUBJECT MATTER ELIGIBILITY UNDER 35 U.S.C. §101" presents the following example

as **patent eligible**, explaining that, under BRI, the step of comparing requires a particularly programmed microprocessor.

> A method of evaluating search results, comprising:
> sorting the results into groups based on a first characteristic;
> ranking the results based on a second characteristic; and
> comparing, using a microprocessor, the ranked results to a predetermined list of desired results to evaluate the success of the search.

As described in Fig. 1 of the present application and page 7, lines 10-19 and 25-27 of the specification, a digital signal processor 24 is used. It is believed that the amended feature of claims 1 and 7 tie the claim to a particular machine; also the machine imposes a meaningful limit and is more than insignificant extra-solution activity because the recording or writing is central to the method as explained in the "INTERIM EXAMINATION INSTRUCTIONS." Therefore, withdrawal of this rejection is respectfully requested.

Claim Rejections - 35 U.S.C. §103

Claims 1-6 are rejected under 35 U.S.C. §103(a) as being unpatentable over by Takahashi et al. (U.S. Patent No. 6,952,522 B2) in view of Yun (U.S. Publication No. 2007/0043900A1).

Prior Art Qualification

This rejection is respectfully traversed. Yun is not a proper prior art under 35 U.S.C. §103(a). The pending application was filed as an international (PCT) application filed on **March 31, 2005**. The U.S. National Stage was entered under 35 U.S.C. §371 on September 29, 2006.

Therefore, the effective filing date of the present application is **March 31, 2005** in accordance with 35 U.S.C. §363.

Yun has a publication date of **February 22, 2007,** which is later than the effective filing date of the present application of **March 31, 2005**. Therefore, Yun fails to qualify as prior art under 35 U.S.C. §102(a) and (b). Next, Yun has a 35 U.S.C. §102(e) date of **February 28, 2006,** which is the filing date of Yun. However, the 102(e) date of **February 28, 2006** is later than the effective filing date of the present application of **March 31, 2005**.

Therefore, Ynu fails to qualify as prior art under 35 U.S.C. §103(a), since the publication date and the 102(e) date falls after the effective filing date of **March 31, 2005** of the present application. Accordingly, withdrawal of the Examiner's reliance on Yun as well as withdrawal of the outstanding rejections regarding claims 1-6 is respectfully requested.

Claims 7-10 are rejected under 35 U.S.C. §103(a) as being unpatentable over by Takahashi et al. (U.S. Patent No. 6,952,522 B2) in view of Suzuki et al. (U.S. Patent No. 7,447,672 B2).

This rejection is respectfully traversed. Independent claim 7, as amended, now calls for the feature of "*the same information about the directory is written, using a processor, in the predetermined unit a plurality of times such that the plurality of the same information about the directory written in the predetermined unit are separated from each other by a predetermined offset.*" This amendment is supported by, for example, the specification (page 18, lines 18-23).

With regard to the above-mentioned feature, the Examiner clearly acknowledges the drawbacks and deficiencies of Takahashi, that is, Thakahashi does not disclose the corresponding feature. In an attempt to cure the above-noted drawbacks and deficiencies of Takahashi, the Examiner relies on the teachings of Suzuki, especially column 2, lines 13-27 of Suzuki (Please see page 7 of the Action). However, the alleged disclosure of Suzuki describes:

> In the management data recording area, a file entry for specifying a file recorded on the recording medium, a root entry for specifying the uppermost order directory in the hierarchical directory structure and a sub-entry for specifying a sub-directory in the hierarchical directory structure, are recorded as the management data in association with the file(s), root directory and the sub-directory generated, respectively. The name of the file specified, the information identifying the root entry or the sub-entry specifying the parent directory of the file, and the information for identifying a recording position of the entity data of the file, are included in the file entry. The name of the sub-directory specified and the information identifying the root entry or the sub-entry specifying the parent directory of the subdirectory are included in the sub-entry (emphasis added).

In other words, in Suzuki, **DIFFERENT** kinds of information from each other are recorded. This is also described in Fig. 15 of Suzuki. That is, Fig. 15 shows eight entries, each including different kind of information based on different files described in Fig. 14.

On the contrary, in the amended claim 7, "*the same information about the directory is written, using a processor, in the predetermined unit a plurality of times such that the plurality of the same information about the directory written in the predetermined unit are separated from each other by a predetermined offset.*" Therefore, Suzuki is SILENT regarding this amended feature.

In view of the above, even if, assuming *arguendo*, that Takahashi may be combined with Suzuki in the manner suggested by the Examiner, such combination would still fail to disclose or fairly suggest the claimed feature of "*the same information about the directory is written, using a processor, in the predetermined unit a plurality of times such that the plurality of the same information about the directory written in the predetermined unit are separated from each other by a predetermined offset*," as called for in amended claim 7. Accordingly, claim 7 and its dependent claims patentably distinguish over Takahashi and Suzuki.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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